

1 PHILLIP A. TALBERT
2 United States Attorney
3 DAVID E. THIESS
4 STEVEN S. TENNYSON
5 Assistant United States Attorneys
6 501 I Street, Suite 10-100
7 Sacramento, CA 95814
8 Telephone: (916) 554-2700
9 Facsimile: (916) 554-2900
10 David.Thiess@usdoj.gov
11 Steven.Tennyson2@usdoj.gov
12 *Attorneys for the United States of America*

1 JONATHAN W. HEATON
2 Nevada Bar No. 12592
3 HEATON LEGAL GROUP, LLC
4 7285 Dean Martin Dr, Ste 180
5 Las Vegas, NV 89118
6 Telephone: 702-329-9901
7 Facsimile: 702-763-7385
8 jon@heatonlegalgroup.com
9 *Attorney for Defendant One Way Drug LLC*

13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,
16 Plaintiff,
17 v.
18 MATTHEW H. PETERS, et al.,
19 Defendants.

20 Case No. 2:24-cv-00287-WBS-CKD

21 **JOINT STATUS REPORT**

22 STATUS CONFERENCE:
23 DATE : 9/23/2024
24 TIME : 1:30 p.m.
25 CTRM : 5, 14th Floor
26 JUDGE : Hon. W. B. Shubb

27 Pursuant to Fed. R. Civ. P. 26(f), the United States and Defendant One Way Drug LLC, by and through their undersigned counsel, hereby submit this Joint Status Report. Counsel for the United States, Defendants One Way Drug LLC, and Defendant Matthew Peters and various other Defendants met and conferred on August 29, 2024, pursuant to Fed. R. Civ. P. 26(f)(1). This Joint Status Report reflects the content of that meeting among counsel for the parties. Counsel for Defendant Matthew

1 Peters and various other Defendants¹ did not respond to drafts of this Joint Status Report to provide
2 input, edits, or consent, however, and may provide its own Status Report.

3 **(A) Brief Summary of the Claims**

4 **Plaintiff's Summary of the Claims**

5 The United States of America brought this action to recover damages from false claims
6 submitted to various federal health care programs in connection with two kickback schemes operated by
7 the Defendants. The kickbacks were made to induce or reward prescriptions directed to a series of
8 pharmacies operated or controlled in practice by Defendant Matthew Peters ("the Defendant
9 Pharmacies"). The two parallel financial kickback schemes included, first, the use of two "management
10 services organizations" ("the Defendant MSOs"), in which prescribing clinicians were offered the
11 opportunity to invest, that Peters created and controlled to pay kickbacks to those prescribers, disguised
12 as investment income. These investments and financial returns were designed and operated to induce
13 and reward investing clinicians' prescriptions to the Defendant Pharmacies. Second, Peters paid
14 financial rewards to a series of loosely-affiliated independent sales representatives ("the Sales
15 Representatives") in the form of commissions, rewarding the Sales Representatives for bringing in high
16 quantities of expensive prescriptions to the Defendant Pharmacies. To pay these commissions, revenues
17 were directed from the Defendant Pharmacies through various entities operated or controlled by Peters,
18 including Defendants Paragon Medical Partners, Praxis Marketing Services LLC, and Cardea
19 Consulting LLC (collectively, the "Marketing Entity Defendants").

20 These arrangements violated the federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b).
21 Defendants knew these arrangements were unlawful, yet submitted, or caused to be submitted, claims
22 for reimbursement for prescriptions generated from the unlawful kickbacks, in violation of the False
23 Claims Act ("FCA"), 31 U.S.C. §§ 3729 *et seq.*

24 The United States seeks to recover treble damages and civil penalties under the FCA, based on
25 causes of action for the presentation of false claims to federal health care programs, causing such false
26

27 ¹ See list of Defendants, Answer of Matthew Peters et al., Dkt. No. 53, at 3

1 claims to be submitted, conspiracy with respect to such false claims, and knowingly and improperly
2 retaining amounts unlawfully paid to the Defendant Pharmacies in connection with claims for
3 prescriptions generated from the unlawful kickbacks. The United States also seeks relief under the
4 common law and in equity, based on unjust enrichment (against Defendant Peters) and payment by
5 mistake (against Defendant Peters and the Defendant Pharmacies). The United States seeks damages,
6 penalties and relief with respect to claims submitted to federal health care programs on or after January
7 22, 2018, and with respect to federal health care program reimbursement received and retained after that
8 date.

9 **One Way Drug's Summary of the Claims**

10 None provided.

11 **(B) Status of Service**

12 All defendants have been served.²

13 **(C) Joinder of Additional Parties**

14 The United States may seek to join certain parties that are described in the Complaint (but not
15 currently joined as defendants), as appropriate, but does not currently anticipate additional parties.

16 **(D) Contemplated Amendments to the Pleadings**

17 The parties do not currently anticipate amendments to the pleadings.

18 **(E) Statutory Basis of Jurisdiction and Venue**

19 This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331,
20 1345, and 1367(a). This Court may exercise personal jurisdiction over Defendants pursuant to 31
21 U.S.C. § 3732(a) and because Defendants have transacted business in the Eastern District of California.
22 Venue is proper in the Eastern District of California under 31 U.S.C. § 3732 and 28 U.S.C. § 1391(b)

23
24
25 ² Several Defendants in this Action have been served but not appeared. Those include Strand
26 View Enterprises LLC, Professional Rx Pharmacy LLC, Inland Medical Consultants LLC (d/b/a
27 Advanced Therapeutics), Synergy Medical Systems LLC (d/b/a Synergy Rx), and Synergy Rx
LLC (d/b/a Synergy Rx).

1 because Defendants have transacted business in this District, and a substantial part of the events giving
2 rise to this Action occurred in this District.

3 **(F) Proposed Discovery Plan**

4 The Parties have agreed to exchange initial disclosures on November 1, 2024. No changes or
5 modifications to the disclosures are necessary. The parties agree that discovery should not be conducted
6 in phases or be limited to or focused upon particular issues, except for the respective deadlines for fact
7 and expert discovery identified below. At present, beyond the deadlines identified below, the parties
8 seek no modification of the federal discovery rules. Without waiving any potential objections based on
9 relevance, proportionality, and/or other scope limitations that may be contemplated under Rule 26, the
10 parties agree that the period subject to discovery shall be January 1, 2017 to the present. Relevant
11 proposed discovery deadlines are set forth in Section G of this Joint Status Report.

12 *Topics for Discovery:* The United States plans to conduct discovery with respect to each of the
13 issues identified or described in the Complaint, including but not limited to: ownership, operation and
14 control of each Defendant entity; financial transactions and arrangements between Defendants; financial
15 transactions and arrangements involving other entities operated or controlled by Defendant Peters
16 regarding the arrangements described in the Complaint; business plans with respect to the Defendant
17 MSOs or similar arrangement involving clinician ownership of entities affiliated with the Defendant
18 Pharmacies; the terms, requirements, or expectations related to investment in the Defendant MSOs
19 (whether formal or informal); communications with clinicians investing in the Defendant MSOs or
20 prospective investors; financial returns from the Defendant MSOs paid to investors; the identity of
21 investors in the Defendant MSOs; records tracking MSO investors' or prospective investors'
22 prescriptions; identity of the Sales Representatives; commission arrangements and payments to the Sales
23 Representatives; promotional tactics used by the Sales Representatives; audits, reviews, or investigations
24 of claims, medical records, or conduct of the Defendant Pharmacies or other Defendants; compliance
25 advice regarding the arrangements described in the Complaint; complaints or reports of noncompliance
26 or potential compliance received by Defendants with respect to the Anti-Kickback Statute or
27 inappropriate billing for prescription medications; billing and revenue information with respect to claims

1 submitted by the Defendant Pharmacies (including the disposition of such revenues); Defendants'
2 knowledge of unlawfulness with respect to the arrangements described in the Complaint; and
3 Defendants' affirmative defenses. The United States plans to conduct discovery of documents,
4 communications, and witnesses, including parties and non-parties to this action identified or described in
5 the Complaint.

6 **(G) Proposed Cut-Off Dates for Discovery**

7 Close of fact discovery: August 22, 2025

8 Expert disclosures due: September 20, 2025

9 Expert reports due: October 22, 2025

10 Expert rebuttal reports due: November 22, 2025

11 **(H) Proposed Dates by Which All Motions Shall Be Filed and Heard**

12 Deadline to file fact discovery motions: August 22, 2025

13 Deadline to file dispositive motions: December 13, 2025

14 Deadline to file expert motions: December 13, 2025

15 Deadline to file motions in limine: January 19, 2026

16 **(I) Any Proposed Modification of Standard Pretrial Proceedings**

17 None.

18 **(J) Estimated Length of Trial**

19 15 days.

20 **(K) Statement re Related Cases, Including Matters in Bankruptcy**

21 Plaintiff: None.

22 One Way Drug d/b/a Partell Pharmacy: None.

23 **(L) Any Other Matters Discussed in Local Rule 240, as Currently Anticipated**

24 The parties discussed the possibility of alternate dispute resolution, including this District's
25 Voluntary Dispute Resolution Program (VDRP), and agreed they are amenable to the use of alternate
26 dispute resolution.

The United States anticipates filing a Motion to Strike certain affirmative defenses pled by Defendants.

**(M) Statement by Nongovernmental Corporate Parties re Parent and Subsidiary
Corporations or Certain Stock Ownership**

One Way Drug LLC d/b/a Partell Pharmacy does not have any parent or subsidiary corporations and has no publicly held company owning 10% or more of its stock.

(N) Other Proposed Case Schedule

Deadline for any Defendant to inform the United States that it plans to assert the advice of counsel defense and waives relevant privilege: December 2, 2024

(O) Status Conference Appearance Preference

The Parties agree that they are satisfied to have the Court issue a Status (Pretrial Scheduling) Order based on this Joint Status Report without requiring that the Parties appear in person for a status conference.

Respectfully submitted,

Dated: September 9, 2024

By: **THELMA R. THIBERT**
UNITED STATES ATTORNEY

PHILLIP A. TALBERT
UNITED STATES ATTORNEY

/s/ David E. Thiess
DAVID E. THIESS
STEVEN S. TENNYSON
Assistant United States Attorneys
Attorneys for Plaintiff United States of America

/s/ Jonathan W. Heaton (auth. 9/9/24)
JONATHAN W. HEATON
Nevada Bar No. 12592
HEATON LEGAL GROUP, LLC
Attorney for Defendant One Way Drug LLC